

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JP MORGAN CHASE BANK, NATIONAL
ASSOCIATION,

Plaintiff,

V.

ROBERT KOWALSKI, et. al,

Defendants.

MARTHA PADILLA,

Third-Party Plaintiff,

V.

FIRST MIDWEST BANK, AS SUCCESSOR IN
INTEREST TO BRIDGEVIEW BANK AND TRUST,

Third-Party Defendant.

**FIRST MIDWEST BANK'S MOTION TO DISMISS
PADILLA'S FIRST AMENDED THIRD-PARTY COMPLAINT**

Third-Party Defendant, First Midwest Bank (“First Midwest”), by and through its attorneys, respectfully moves to dismiss Third-Party Plaintiff, Martha Padilla’s First Amended Third-Party Complaint (the “Amended Complaint”) under Federal Rules of Civil Procedure 12(b)(1), 12(h)(3), and 12(b)(6). (Dkt. 121). In support of this motion, First Midwest states as follows:

1. Padilla asserts a breach of fiduciary duty claim against First Midwest, alleging that it is the successor to Bridgeview Bank, which allegedly failed to properly administer a land trust for which it served as trustee.

2. Padilla is seeking damages against First Midwest under a single theory of liability, *e.g.*, breach of fiduciary duty. Padilla's Amended Complaint should be dismissed for the same

reason as the original Third-Party Complaint: the pleading establishes that Padilla's claim is time barred, and Padilla lacks standing to bring a cause of action against First Midwest.

3. First Midwest concurrently files, and incorporates by reference, its Memorandum of Law in support of this dismissal motion.

WHEREFORE, for all of the reasons set forth above and in the accompanying Memorandum of Law, First Midwest respectfully requests that the Court enter an Order:

- A. Dismissing this action, with prejudice, under Federal Rules of Civil Procedure 12(b)(1) and 12(h)(3);
- B. Alternatively, dismissing this action, with prejudice, under Federal Rule of Civil Procedure 12(b)(6); and
- C. Granting to First Midwest any other relief the Court finds just and reasonable.

Dated: June 17, 2021

Respectfully submitted,

**FIRST MIDWEST BANK, Third-Party
Defendant**

By: /s/ Adam B. Rome
One of Its Attorneys

Adam B. Rome (IL # 6278341)
Zachary P. Mulcrone (IL # 6300387)
GREIMAN, ROME & GRIESMEYER, LLC
205 West Randolph, Ste. 2300
Chicago, Illinois 60606
312-428-2750
arome@grglegal.com
zmulcrone@grglegal.com

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to those participants registered with the ECF System.

By: /s/ Adam B. Rome
Adam B. Rome (ARDC #6278341)
GREIMAN, ROME & GRIESMEYER, LLC
205 West Randolph St., Ste. 2300
Chicago, Illinois 60606
(312) 428-2750
(312) 332-2781 (facsimile)
arome@grglegal.com